

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
OFFICE OF THE ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE
SHASTRI BHAWAN, HADDOWS ROAD, CHENNAI-600 006

F.No.04/21/021/00061/AM09

DATED: 04.10.2019

ORDER-IN-ORIGINAL

PASSED BY : J. MURALIDHARAN, DY. DIRECTOR GENERAL OF FOREIGN TRADE

- 1 Any person/party aggrieved by this Order may, under Section-14 of the Foreign Trade (Development & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) and as amended from time to time, file an appeal against the same to the appropriate authority viz. The Additional Director General of Foreign Trade, Chennai within 45 days from the date of issue of this Adjudication Order together with a copy of this Order and complete set of evidences in the form of annexure/attachment to the appeal relied upon in support of the appeal, alongwith the proof of penalty amount imposed under this Act.
- 2 Any person/party desirous of filing an appeal against this Order shall deposit the penalty amount and produce proof of payment of penalty amount alongwith the appeal to the Appellate Authority failing which the appeal is liable to be rejected for non-compliance of the provisions of Section-15 of the Foreign Trade (Development & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 and as amended from time to time.
- 3 The penalty amount is to be deposited under the Head of Account "1453-Foreign Trade and Export Promotion Minor Head 102 – Other receipts, fines and penalties etc. – Imports and Exports Trade Control Organisation" or through "eMPS (Electronic Miscellaneous Payment System)" as the case may be.
- 4 If the penalty imposed under this Act is not paid, the same will be recovered as an arrear of land revenue and the Importer-Exporter Code Number of the person/firm/company or other entities concerned is liable to be suspended under the provisions of Section-11(4) of the Foreign Trade (Development & Regulation) Act, 1992, readwith Foreign Trade (Development & Regulation) Amendment Act,2010 and as amended from time to time.

FACTS OF THE CASE

M/s. Best & Crompton Apparels Limited,(IEC No.0407002855)28, Industrial Estate (North), Ambattur, Chennai, Tamilnadu, Pin-600 098 had obtained 05 EPCG Licences/authorisations for import of capital goods under 3% concessional duty EPCG Scheme with an obligation to earn eight times of the duty saved value by export of "Readymade garments", as per nexus certified in Chartered Engineer's certificate within a period of eight years in the prescribed proportions over and above the annual

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average prescribed in the respective licences/authorisations, as detailed in the annexure enclosed herewith. For the purpose of discharge of said export obligation, M/s. Best & Crompton Apparels Limited, Chennai were required to submit the export documents under ANF-5B, as per Para-5.13 of Hand Book of Procedures, 2004-09 as amended, within a period of three months from the date of expiry of above block periods. Despite, , M/s. Best & Crompton Apparels Limited, Chennai were required to submit a report on fulfilment of export obligation by 30th April of every year to the Licensing Authority/Regional Authority concerned, as per Para-5.6 of Hand Book of Procedures, 2004-09 as amended. M/s. Best & Crompton Apparels Limited, Chennai were also required to submit the Installation Certificate issued by the Central Excise Authority or Chartered Engineer as the case may be, within a period of six months from the date of import to the Regional Authority/Licensing Authority concerned, as per Para-5.3.1 of Hand Book of Procedures, 2004-09 as amended.

As, M/s. Best & Crompton Apparels Limited, Chennai had not submitted the export documents under ANF-5B or yearwise progressive Report and Installation Certificate as required a show cause notice dated 09.09.2019 against all the 5 cases under reference was issued by the undersigned to M/s. Best & Crompton Apparels Limited, Chennai vide file No. 04/21/21/00061/AM09 with an opportunity of personal hearing on 20.09.2019 to explain the reasons and facts within a period of 15 days, as to why action should not be taken for placing M/s. Best & Crompton Apparels Limited, Chennai under Denied Entity List, refusing issuance of further licences/authorisations/renewal of old licences/authorisations and other export benefits etc. in terms of Section-9(2) of Foreign Trade (Development) Act, 1992 readwith Rule-7(k)of Foreign Trade (Regulation) Rules, 1993 and as to why penalty should not be imposed adjudicating their case under Section-11(2) of Foreign Trade (Development & Regulation) Act, 1992, in exercise of the powers vested in undersigned under Section-13 of the Foreign Trade (Development & Regulation) Act, 1992. However the said Showcause notice addressed to firm at 28, Industrial Estate (North), Ambathur, Chennai, Tamilnadu-600 098 as per details available in their IEC data base, had been returned undelivered by the Postal Authorities concerned with the remarks "left". M/s. Best & Crompton Apparels Limited, Chennai had either intimated the change of address or settled these pending EPCG cases, which tantamount to gross violation of EXIM/Foreign Trade Policy/Procedures, attracting action under the provisions of Section-9(2) & 11(2) of Foreign Trade (Development & Regulation) Act, 1992 readwith Rule-7(k) of Foreign Trade (Regulation) Rules, 1993.

FINDINGS

M/s. Best & Crompton Apparels Limited, Chennai had failed to submit the export documents under ANF-5B and installation certificate as required under Para-5.13 of hand Book of Procedures, 2004-09 or regularised the issue by paying the entire duty saved value utilised alongwith interest thereon to the Customs Authority at Port of Registration and produced documentary evidence towards such payments for the non-fulfilment of above export obligation, as per Para-5.14 of Hand Book of Procedures, 2004-09, even after a period of more than three years from the date of expiry of export obligation period. M/s. Best & Crompton Apparels Limited, Chennai had also violated the condition laid down under Para-5.3.2 of Hand Book of Procedures, 2004-09, by not furnishing the Installation Certificate evidencing the installation of imported capital goods at their own manufacturing premises/supporting manufacturers' premises as the case may be, as endorsed in the subject licence/authorisation within the time limit prescribed therein.

ORDER

The undersigned has gone through the above facts of the case thoroughly and carefully. In the absence of any export documents towards fulfilment of export obligation and installation certificate as well as in the absence of documentary proof for having paid the duty saved value utilised and interest thereon in case of non-fulfilment of export obligation intended for the above authorisations/licences, the undersigned has every reason to believe that M/s. Best & Crompton Apparels Limited, Chennai had misutilised the EPCG Scheme and wilfully defaulted in fulfilling the export obligation, deserving themselves for action/penalty under Foreign Trade (Development & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) and Foreign Trade (Regulation) Rules, 1993, as amended from time to time.

The undersigned, in exercise of the powers vested in him under Section-13 of Foreign Trade (Development & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) as amended from time to time, hereby impose a consolidated fiscal penalty of Rs. 50,00,000/- (Rupees Fifty Lakhs only), in addition to the customs duty (duty saved value utilised) and interest thereon towards nonfulfilment of export obligation against all the five EPCG authorisations/Licences appended herewith under Section 11(2) of Foreign Trade (Development & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) as amended from time to time.

The undersigned, further, orders that no further licence/authorisation/export incentives etc. shall be granted to M/s. Best & Crompton Apparels Limited, Chennai and its Director or to any other firms in which the Director are directly involved in the capacity of Proprietor/Partners/Directors under Section-9(2) of Foreign Trade (Development & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) and Rule-7(k) of Foreign Trade (Regulation) Rules, 1993 as amended from time to time.

This order is issued without prejudice to any other action that may be taken under any other Act, Rules or Regulations etc. in force.


(J. MURALIDHARAN)

DY. DIRECTOR GENERAL OF FOREIGN TRADE

To

M/s. Best & Crompton Apparels Limited,(IEC No.0407002855)
28, Industrial Estate (North), Ambattur,
Chennai, Tamilnadu, Pin-600 098.

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M/s. BEST & CROMPTON APPARELS LIMITED (IEC No. 0407002855)

Head Office: No.17 (Old No.6),

Vaithayaraman Street,

Chennai, Tamilnadu 600 017.

Copy to :-

1. All the branches/factories, as per IEC Data-base.
2. All the Directors, as per IEC Data-base.
3. Customs Authority at Port of Registration.

ANNEXURE

List of EPCG Authorisations/Licences obtained during April,2010 – March 2011
by M/s. BEST & CROMPTON APPARELS LIMITED, Chennai

SL.NO.	LicNo	LicDate	FileNo	DutySaved	AnnualAvg	USD
1	0430006085	05-01-2008	042102100061AM09	2655227	0	525137.60
2	0430006111	07-05-2008	042102100063AM09	4483484	0	886721.20
3	0430006447	01-08-2008	042102100447AM09	33503372	0	6204328
4	0430006907	03-12-2008	042102100732AM09	79371	0	13582.20
5	0430006847	17-11-2008	042102100880AM09	89737	0	14243.96


(J.MURALIDHARAN)

DY. DIRECTOR GENERAL OF FOREIGN TRADE